

Message Text

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ACTION EB-08

INFO OCT-01 ARA-10 ISO-00 CIAE-00 COME-00 DODE-00
DOTE-00 FMC-01 INR-10 NSAE-00 CG-00 DLOS-09
OES-07 L-03 IO-13 PA-01 ICA-11 SP-02 SS-15 NSC-05
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TO SECSTATE WASHDC PRIORITY 6099
INFO AMEMBASSY BRASILIA
AMCONSUL SAO PAULO

LIMITED OFFICIAL USE SECTION 1 OF 2 RIO DE JANEIRO 1658

E.O. 11652: N/A
TAGS: EWWT, BR
SUBJECT: MARITIME DISCUSSIONS WITH BRAZIL: DISCUSSIONS AT SUNAMAM

REF: BRASILIA 4699 '77

SUMMARY:

1. ASSISTANT SECRETARY BLACKWELL AND HIS DELEGATION MET WITH BRAZILIAN DELEGATION (INCLUDING REPRESENTATIVES OF MINISTRIES OF FINANCE AND FOREIGN AFFAIRS) AT NATIONAL MERCHANT MARINE SUPERINTENDENCY (SUNAMAM) IN RIO ON APRIL 5-6. MAIN SUBSTANCE OF DISCUSSION WAS SUNAMAM RESOLUTION 5246 (REFTEL), ESPECIALLY AS IT RELATES TO GOB REFUSAL TO PERMIT SEA-LAND SERVICES, INC. TO BEGIN OPERATIONS TO BRAZIL (BRASILIA 1547). APRIL 4 DISCUSSIONS IN BRASILIA AT TRANSPORT MINISTRY (SEPTTEL) COVERED BASIC GOB REFUSAL TO PERMIT SEA-LAND TO USE ITS 35-FOOT CONTAINERS HERE. PRESS COVERAGE OF VISIT ALSO SUBJECT OF SEPTTEL. END SUMMARY.

2. APRIL 5 MEETING AT SUNAMAM WAS OPENED BY ASSISTANT SECRETARY
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WITH BRIEF STATEMENT ON BILATERAL MARITIME RELATIONS, OBSERVING THAT LITTLE PROGRESS HAD BEEN POSSIBLE ON USG SIDE TOWARD A POSSIBLE GENERAL AGREEMENT ON MARITIME MATTERS. BLACKWELL NOTED THAT OUR EFFORT TO DEAL WITH SEA-LAND'S PROBLEM HAD LIMITED OUR ABILITY TO MOVE AHEAD ON SUCH AN AGREEMENT. FONOFF REP (PIRES) STATED THAT A GENERAL AGREEMENT COULD HAVE FACILITATED SOLUTIONS TO BOTH WEST COAST SOUTH-BOUND POOL (NOW SATISFACTORILY RESOLVED

BY AGREEMENT AMONG POOL MEMBERS) AND SEA-LAND PROBLEMS. (HE DID NOT SPECIFY HOW IT WOULD HELP IN THE SEA-LAND ENTRY QUESTION). SUNAMAM SUPERINTENDENT ABUD MADE A BRIEF OPENING PRESENTATION STRESSING THAT BRAZIL IS THE BILATERAL TRADE IN WHICH US LINES HAVE LARGEST PARTICIPATION. THIS ALLEGATION WAS INFORMALLY DISPUTED BY US SIDE, CITING NORTH ATLANTIC TRADE AND ARGUING THAT ONE MUST CONSIDER INTRINSIC CONDITIONS OF SPECIFIC TRADES -- THAT COMPARISONS WITH NORTH ATLANTIC OR ANYWHERE ELSE WERE SIMPLY IRRELEVANT. IN PARTICULAR, WE ARE FACED HERE WITH A NEED TO REMAIN FLEXIBLE TO BE ABLE TO RESPOND TO DOMESTIC POLITICAL AND ECONOMIC CONDITIONS. IN THIS REGARD, WE ACKNOWLEDGE THE INTERMINISTERIAL NATURE OF GOB VETO OF SEA-LAND'S REQUEST TO USE 35-FOOT CONTAINERS -- AND SUNAMAM'S RESULTING INABILITY TO NEGOTIATE ON THIS ELEMENT IN OUR MARITIME AFFAIRS. HOWEVER, POSSIBLE DAMAGE FROM THE GOB DECISION IMPELS US TO SEEK WHATEVER ASSISTANCE SUNAMAM MAY BE ABLE TO PROVIDE.

3. DISCUSION QUICKLY MOVED TO PUERTO RICAN TRANSSHIPMENT PROBLEM WHICH, SINCE IT IS BASED ON SUNAMAM'S OWN RESOLUTION, BECAME FOCUS OF REMAINING EFFORTS TO FIND MUTUALLY-SATISFACTORY CHANNEL LEADING TO A POSSIBLE RESOLUTION OF SEA-LAND IMPASSE. BLACKWELL SAID WE DO NOT SEE BRAZILIAN LINES' INTERESTS DAMAGED BY TRANS-SHIPMENT. THE INTERAMERICAN FREIGHT CONFERENCE ACCEPTED IT LAST YEAR, AND THEN SUNAMAM REJECTED IT -- DESPITE ITS EVIDENT COMMERCIAL LEGITIMACY. WE SEE RES 5246 AS "IMPROPER INTERFERENCE IN US DOMESTIC COMMERCE AND IN US SOVEREIGNTY." ABUD REPLIED THAT LIMITED OFFICIAL USE

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PUERTO RICO IS A SPECIAL SITUATION BECAUSE IT IS OUTSIDE THE THREE US-BRAZIL POOLS, AND CARGOES FROM AND TO PUERTO RICO ARE NOT COUNTED UNDER THE US-BRAZIL EQUAL-ACCESS AGREEMENT OF 1971. "I TOLD SEA-LAND," HE SAID, "TO PROPOSE PUERTO RICO'S ENTRY INTO THE CONFERENCE (I.E., THE THREE MAINLAND-TO-BRAZIL POOLS) AND THE BRAZILIAN LINES WOULD SUPPORT SUCH A CHANGE."

4. ASSISTANT SECRETARY BLACKWELL NOTED THIS APPEARED TO BE A NEW PROPOSAL BY SUNAMAM AND ASKED HOW TRANSSHIPMENT WOULD BE COUNTED; ABUD SAID THEY WOULD COUNT FROM ORIGINATING POOL (E.G., EAST COAST SOUTHBOUND), BASED ON BILL OF LADING POINT OF ORIGIN. HIS PURPOSE, HE SAID, IS "TO KEEP THE CARGO INSIDE THE CONFERENCE." HE ALSO INITIALLY SAID THAT EXISTING PUERTO RICO CONFERENCE COULD CONTINUE, BUT LATER SAID THAT LLOYD BRASILEIRO WOULD "PROBABLY" PULL OUT, MAKING IT INVIABLE. MR. BLACKWELL ASKED FOR A RECESS FOR USDEL TO CONSULT ON THIS SUNAMAM INITIATIVE.

5. DISCUSSIONS RESUMED HALF AN HOUR LATER, WITH ASSISTANT SECRETARY POINTING TO TECHNICAL AND OPERATING DIFFICULTIES TO SUNAMAM'S PROPOSAL. IT WOULD BE CUMBERSOME FOR THREE DIFFERENT CONFERENCES TO HAVE JURISDICTION OVER ELEMENTS OF PUERTO RICO-BRAZIL TRADE, POSSIBLY EVEN WITH DIFFERING FREIGHT RATES. BRAZILIAN SIDE ARGUED

THAT SEA-LAND IS "TRYING TO KEEP PUERTO RICO OUT OF US-BRAZIL
TRADE," AND THAT, SINCE PUERTO RICO-BRAZIL VOLUME IS SO LOW,
SEA-LAND'S RESISTANCE TO INCLUDING PUERTO RICO IN THE EXISTING
POOLS IS SUSPICIOUS. (THOUGH NEVER EXPLICIT, IT SEEMED EVIDENT
THAT SUNAMAM FEARED THAT JAPANESE AND/OR EUROPEAN CARGOES WOULD
BE CONSOLIDATED BY SEA-LAND AT PUERTO RICO, INJURING THE RE-
SPECTIVE CONFERENCES.) BLACKWELL COUNTERED THAT WE HAVE NO
DIFFICULTY IN INCLUDING PUERTO RICAN-ORIGIN CARGOES UNDER THE
EQUAL ACCESS AGREEMENT, BUT THAT RESHAPING THE CONFERENCES WOULD
BE UTTERLY IRRELEVANT TO THE BASIC TRANSSHIPMENT QUESTION.
THERE MIGHT BE EVENTUAL OBJECTION TO A RESHAPING OF THE CON-
FERENCES FROM THE JUSTICE DEPARTMENT OR FROM ANY MEMBER OF THE
FOUR (COUNTING THE PUERTO RICAN) CONFERENCES, WHICH MUST TAKE
THEIR DECISIONS BY UNANIMITY. HE OFFERED TO WORK CLOSELY WITH
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SUNAMAM TO MAKE SURE THAT EUROPEAN OR OTHER NON-US CARGOES
WOULD NOT "LEAK" THROUGH PUERTO RICO INTO US CARRIAGE TO BRAZIL.

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6. WHILE GENERAL DISCUSSION OF ALTERNATIVES TO RES 5246 ALWAYS
TENDED TO BE IN "NEUTRAL" TERMS, AVOIDING SPECIFIC REFERENCE TO
SEA-LAND, BRAZILIAN SIDE SOMETIMES POINTED DIRECTLY AT SEA-LAND'S
PAST AND ANTICIPATED BEHAVIOR AS JUSTIFICATION FOR SUNAMAM'S

SUSPICIONS. AT ONE POINT, ONE BRAZILIAN SAID THAT "ONLY REQUEST WE MADE TO SEA-LAND WAS THAT IT PLAY BY RULES." AT ANOTHER POINT, SEA-LAND'S ACCEPTANCE OF EAST COAST POOL WAS CONTRASTED WITH ITS APPEALS "A WEEK LATER" TO FMC AND COURTS AGAINST POOLS.

7. DURING THE APRIL 6 MEETING, ABUD CONTINUED TO PRESS HIS VIEW THAT THE PROBLEM COULD BEST BE SOLVED BY BRINGING PUERTO RICO UNDER THE SCOPE OF EQUAL ACCESS, CONFERENCE AND POOLING ARRANGEMENTS. HE ALSO REPEATED THAT, SINCE THE MATTER WAS OF A COMMERCIAL NATURE, IT SHOULD BE RETURNED TO THE LINES. BLACKWELL REMINDED THE SUPERINTENDENT OF SUNAMAM THAT, AT THE MOMENT SUNAMAM REJECTED CONFERENCE TARIFF PAGE WHICH SOUGHT TO ALLOW SEA-LAND TO TRANSSHIP AT PUERTO RICO, THE SOLUTION WAS NO LONGER SIMPLY OF A COMMERCIAL NATURE.

8. COM ABUD INSISTED THAT THE PRIMARY PURPOSE BEHIND RESOLUTION 5246 WAS TO CONTROL CARGOES. HE MADE IT CLEAR THAT HE DID NOT LIMITED OFFICIAL USE

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TRUST SEA-LAND AND FEARED THAT THE COMPANY WOULD ENGAGE IN DEVIOUS PRACTICES, RESULTING IN THE DISADVANTAGE OF BRAZILIAN FLAG CARRIERS. AT THIS POINT, PIRES RE-EMPHASIZED THAT THE TWO GOVERNMENTS SHOULD EXPEDITE NEGOTIATIONS LEADING TO A GENERAL BILATERAL MARITIME AGREEMENT.

9. AT THE CLOSE OF THE MEETING, ABUD ADMITTED THAT THE TWO SIDES HAD APPARENTLY REACHED "A STALEMATE;" ASST. SECRETARY BLACKWELL DID NOT DISAGREE. HOWEVER, IN VIEW OF THE APPARENTLY INFLEXIBLE ATTITUDE OF THE BRAZILIAN DELEGATION, BLACKWELL INFORMED ABUD OF THE LEGAL REMEDIES AVAILABLE TO SEA-LAND IN THE UNITED STATES, WHICH HE NOTED, ARE ALREADY BEING CONSIDERED BY THE COMPANY. MR. BLACKWELL ATTEMPTED TO BE EXTREMELY PRECISE IN STATING THAT "I AM NOT THREATENING. I MERELY WANT TO MAKE YOU AWARE OF WHAT SEA-LAND IS CONTEMPLATING, SO THAT AT A LATER DATE YOU WILL NOT BE IN A POSITION TO SAY, 'WHY DIDN'T YOU TELL US?'" THE ASSISTANT SECRETARY ENNUMERATED THE REMEDIES AVAILABLE TO SEA-LAND INCLUDING PROCEDURES UNDER PUBLIC RESOLUTION 17 INVOLVING WAIVERS ON EXIM CARGOES; SECTION 301 OF THE TRADE ACT OF 1974, AND SECTION 19 OF THE MERCHANT MARINE ACT OF 1920.

10. BEFORE ADJOURNING, ABUD AGAIN PROPOSED THAT BOTH EQUAL ACCESS AND THE SCOPE OF THE CONFERENCE BE EXTENDED TO APPLY TO PUERTO RICO. BLACKWELL SAID THAT HE WOULD CARRY ABUD'S MESSAGE TO THE APPROPRIATE MEMBER LINES BUT THAT HE, PERSONALLY, WAS NOT HOPEFUL THAT IMPLEMENTATION OF THE SUGGESTION WOULD SOLVE THE PROBLEM IN THE ASSISTANT SECRETARY'S VIEW, THE MOST PRACTICAL SOLUTION WOULD BE WITHDRAWAL OR MODIFICATION OF RESOLUTION 5246, WHICH WOULD PERMIT US CARRIERS TO TRANSSHIP AT PUERTO RICO. COM ABUD WAS ADAMANT IN HIS DECISION NEITHER TO AMEND NOR TO WITHDRAW THE RESOLUTION.

11. EMBASSY CONCURS.
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SIMMONS

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Message Attributes

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